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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,) CR-09-0901 SBA
11)
Plaintiff,)
12)
vs.) **STIPULATION AND ORDER**
13) **CONTINUING HEARING AND**
DWEN EDWARD CURRY,) **EXCLUDING TIME**
14)
Defendant.)
15 _____)

16 Plaintiff, by and through its attorney of record, and defendant, by and through his
17 attorney of record, hereby stipulate and ask the Court to find as follows:

18 1. For the reasons set forth herein, the parties request that the September 21, 2010 Plea
19 and Sentencing hearing be continued until **10:00** a.m. on October 19, 2010, for the reason that
20 defense counsel, appointed yesterday, July 22, 2010 will be out of the country on September 21,
21 2010. Additionally, newly appointed defense counsel needs sufficient time to review materials
22 to learn the nature of the case and charges and to effectively prepare for the pre-sentence
23 interview, plea and sentencing. Probation Officer, Connie Cook, has no objection to this
24 continuance and is in agreement with this request and new proposed date of October 19, 2010.

25 2. The parties believe that failure to grant the above-requested continuance would
26 deny defendant continuity of counsel, would deny defendant's counsel and defendant the

1 reasonable time necessary for effective preparation taking into account the exercise of due
2 diligence, and that the ends of justice served by continuing the case as requested outweigh the
3 interest of the public and defendant in a trial within the date prescribed by the Speedy Trial Act.

4 3. Thus, the parties respectfully request that the Court find that the time period from
5 September 21, 2010, to October 19, 2010, is excludable pursuant to 18 U.S.C. §§ 3161(h)(7)(A),
6 (B)(iv) because it results from a continuance granted by the Court at the defendant's request and
7 on the basis of the Court's finding that the ends of justice served by taking such action outweigh
8 the best interest of the public and the defendant in a speedy trial and because failure to grant the
9 continuance would unreasonably deny defendant continuity of counsel and would unreasonably
10 deny defense counsel the time necessary for effective preparation for trial, taking into account
11 due diligence.

12 SO STIPULATED.

13 Dated: July 23, 2010

/s/
JOSEPH P. RUSSONIELLO
United States Attorney

By: JOSHUA HILL
Assistant United States Attorney

16
17 Dated: July 23, 2010

/s/
GAIL SHIFMAN
Counsel for Defendant CURRY

18
19
20 **ORDER**

21 FOR GOOD CAUSE SHOWN, THE COURT ADOPTS THE FINDINGS OF FACT
22 AND CONCLUSIONS OF LAW STIPULATED TO BY THE PARTIES. THEREFORE, IT IS
23 SO FOUND AND ORDERED THAT:

24 1. The currently scheduled September 21, 2010, hearing is vacated. A hearing for plea
25 and sentencing is now scheduled for **10:00** a.m. on October 19, 2010.

26 2. The time period from September 21, 2010 to October 19, 2010, is deemed excludable

1 pursuant to 18 U.S.C. §§ 3161(h)(7)(A), (B)(iv) because it results from a continuance granted by
2 the Court at the defendant's request and on the basis of the Court's finding that the ends of
3 justice served by taking such action outweigh the best interest of the public and the defendant in
4 a speedy trial and because failure to grant the continuance would unreasonably deny defense
5 counsel the time necessary for effective preparation for trial, taking into account due diligence.
6 The Court finds that nothing in this stipulation and order shall preclude a finding that other
7 provisions of the Speedy Trial Act dictate that additional time periods are excludable from the
8 period within which trial must commence.

9 Dated: July 26, 2010


HONORABLE SAUNDRA B. ARMSTRONG
United States District Judge